

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**JERRY HOFROCK,**

**Plaintiff,**

**v.**

**FREEDOM MORTGAGE  
CORPORATION,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**Civil Action No. 1:22-cv-900**

**NOTICE OF REMOVAL**

Defendant Freedom Mortgage Corporation (“Freedom” or “Defendant”) files this its Notice of Removal pursuant to 28 U.S.C. sections 1332, 1441, and 1446. In support of this Notice, Defendant states as follows:

**SUMMARY**

1. Jerry Hofrock (“Plaintiff”) filed this action on August 2, 2022, in the 395th District Court of Williamson County, Texas, as cause number 22-1131-C395 in the matter styled *Jerry Hofrock v. Freedom Mortgage* (the “State Court Action”). Pursuant to sections 1441 and 1446 of Title 28 of the United States Code, defendant Freedom removes this case to the United States District Court for the Western District of Texas, Austin Division, the Judicial District and Division in which this action is pending.

2. The allegations in Plaintiff’s *Original Petition with Request for Temporary Restraining Order and Temporary Injunctive Relief* (“Petition”) relate to the servicing of a loan agreement and title to the real property commonly known as 8304 Paola Street, Round Rock, TX 78665 (“Property”). (*See* Petition at ¶ 11.) In his Petition, Plaintiff alleges that Freedom committed Breach of Contract. (*Id.* at ¶¶ 6-9.) Based on these allegations, Plaintiff seeks

injunctive relief preventing foreclosure, unspecified damages, attorney's fees, and costs. (*Id.* at ¶¶ 9, 23, and Prayer.)

3. A copy of the Docket Sheet from the State Court Action is attached as Exhibit A. Copies of all pleadings filed in the State Court Action are attached as Exhibit B.

4. This Notice of Removal is timely under the provisions of 28 U.S.C. Section 1446(b) because this notice is being filed prior to completion of service or within thirty (30) days of service. 28 U.S.C. § 1446(b)(2).

**BASIS FOR REMOVAL: DIVERSITY JURISDICTION**

5. Removal of the State Court Action to this Court is proper pursuant to 28 U.S.C. Sections 1332, 1441(a) and (b) because the properly joined parties are diverse and the amount in controversy is well in excess of \$75,000.00 exclusive of interest and costs.

**A. There is complete diversity between Plaintiff and Freedom.**

6. Plaintiff is a citizen of Texas. (*See* Petition.)

7. Defendant Freedom is a New Jersey corporation with its principal place of business in New Jersey. As such, Defendant is a citizen of New Jersey for purposes of diversity jurisdiction. See 28 U.S.C. § 1332(c)(1).

**B. The amount in controversy exceeds \$75,000.00.**

8. The amount in controversy exceeds the sum or value of \$75,000.00. Plaintiff seeks injunctive relief. (*Id.* at Prayer.)

9. In the Fifth Circuit, when declaratory or injunctive relief is sought, the amount in controversy is measured by the value of the object of the litigation, and the value of that right is measured by the losses that will follow. *Webb v. Investacorp, Inc.*, 89 F.3d 252, 256 (5<sup>th</sup> Cir.1996). Stated differently, “the amount in controversy, in an action for declaratory and

injunctive relief, is the value of the right to be protected or the extent of the injury to be prevented.” *Leininger v. Leininger*, 705 F.2d 727, 729 (5th Cir.1983); *see also Lamarr v. Chase Home Finance, LLC*, 2008 WL 4057301 (N.D. Miss. 2008) (finding amount in controversy requirement was satisfied where plaintiff sought to set aside foreclosure sale and home appraised for \$83,000.00, plus unspecified amount of monetary damages); *Bank of America National Trust and Sav. Assoc. v. Reeves*, 1995 WL 96617, \*1 (E.D. La. 1995) (court held that the amount in controversy was met in action seeking to enjoin foreclosure on property because the suit “puts at issue the entire value of the property on which they attempt to enjoin defendants from foreclosing.”).

10. As set forth above, Plaintiff seeks injunctive relief preventing foreclosure on the Property. (Petition at ¶¶ 11-16 and 18.) In doing so, Plaintiff has put at issue the entire value of the Property. The Williamson County Appraisal District values the property at \$550,056.00. (Exhibits C and C-1) If Plaintiff is granted the injunctive relief requested, Freedom will lose the ability to enforce its lien interest in the Property. Accordingly, the relief Plaintiff seeks places at issue the value of the Property, which is well in excess of \$75,000.00.

11. Defendant denies that Plaintiff is entitled to any relief, but there can be no question that Plaintiff’s Petition, which seeks injunctive relief that will strip Defendant of an ability to foreclose on the Property, puts in excess of \$75,000.00 in controversy.

### **VENUE**

12. Venue for removal is proper in this District and Division under 28 U.S.C. Section 1441(a) because this district and division embrace the 395th District Court of Williamson County, Texas, the forum in which the removed action was pending.

**NOTICE**

13. Concurrently with the filing of this Notice, Defendant will file a copy of this Notice of Removal with the Clerk of the 395th District Court of Williamson County, Texas.

Respectfully submitted,

/s/ Bradley Conway

**Bradley Conway**

Texas Bar No. 24055340

[bconway@mgs-legal.com](mailto:bconway@mgs-legal.com)

**Dustin George**

Texas Bar No. 24065287

[dgeorge@mgs-legal.com](mailto:dgeorge@mgs-legal.com)

**MILLER, GEORGE & SUGGS, PLLC**

5601 Democracy Drive, Suite 265

Plano, Texas 75024

Phone: (972) 532-0128

Fax: (214) 291-5507

*Attorney for Defendant Freedom Mortgage  
Corporation*

**LIST OF ALL KNOWN COUNSEL OF RECORD**

For Plaintiff Jerry Hofrock:

Stephen Casey  
Texas Bar No. 24065015  
CASEY LAW OFFICE, P.C.  
P.O. Box 2451  
Round Rock, TX 78680  
Phone: (512) 257-1324  
Fax: (512) 853-4098

For Defendant Freedom Mortgage Corporation:

Bradley Conway  
Texas Bar No. 24055340  
Dustin George  
Texas Bar No. 24065287  
MILLER, GEORGE & SUGGS, PLLC  
5601 Democracy Drive, Suite 265  
Plano, Texas 75024  
Phone: (972) 532-0128  
Fax: (214) 291-5507

**INDEX OF DOCUMENTS ATTACHED**

- Exhibit A      Copy of the Docket Sheet for Cause No. 22-1131-C395, in the 395th District Court of Williamson County, Texas;
- Exhibit B      Pleadings in Cause No. Cause No. 22-1131-C395, in the 395th District Court of Williamson County, Texas;
- B-1      Plaintiff's Original Petition filed 8/02/2022;;
- B-2      Plaintiff's Temporary Restraining Order signed & filed 8/02/2022;
- B-3      Plaintiff's Request for Issuance filed 8/02/2022;
- B-4      Citation issued 8/02/2022, and
- B-5      Temporary Restraining Order issued 8/02/2022.
- Exhibit C      Declaration of Bradley Conway
- C-1      Copy of the Williamson County CAD Property Search Results for the property located at 8304 Paola Street, Round Rock, TX 78665.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 8th day of September 2022 a true and correct copy of the foregoing was served via regular U.S. mail and email on the following parties and counsel:

*VIA FIRST CLASS MAIL and email:*

Stephen Casey  
P.O. Box 2451  
Round Rock, TX 78680  
[stephen@caseylawoffice.us](mailto:stephen@caseylawoffice.us)  
*Attorney for Plaintiff*

/s/ Bradley Conway  
**BRADLEY CONWAY**